

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6670 OF 2004

Pyarelal Laxman Patil etc. .. Petitioners

Versus

The Government of Maharashtra
and Ors. .. Respondents

Mr.A.R.Shaikh and Mr.A.D.Khan for the petitioner

Mr.R.D.Rane for the respondent nos.1 to 4

**CORAM: A.P.SHAH &
S.U.KAMDAR, JJ**

DATED: 23RD AUGUST, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. In the present petition, the petitioners are challenging the order dated 2nd April 2004 by which the Education Officer, Zilla Parishad, Nasik has withdrawn the approval already granted to the Teachers in Respondent No.5 School.

2. The said order dated 2nd April 2004 has been

passed inter alia on the ground that the petitioners' appointment was contrary to the reservation policy in as much as the said post was infact reserved for Backward Class but was wrongly filled in from the open category. It is the case of the respondents that the said post falls under the reserved category because there was a backlog of reserved post and without clearing the same, respondent no.5 could not have given the petitioners' an appointment on the said posts. The respondents have further contended that the teachers appointed by the 5th respondent school and the approval obtained by them was on the basis that the said post are vacant for an open / general category and does not fall under the reserved category.

3. In the aforesaid circumstances, the approval has been withdrawn by the authorities by the impugned order dated 2nd April 2004. We are of the view that before any such order can be passed, it is necessary for the Education Officer to hear all the parties concerned and thereafter pass an

appropriate speaking order. It is an admitted fact that the petitioners as well as the 5th respondent school have not been heard by the respondent no.4 while passing the impugned order herein. The said order of withdrawal has been passed after 4 years of granting an approval.

4. On this short ground, we set aside the impugned order dated 2nd April 2004 and direct the 4th respondent to pass appropriate order afresh after giving a personal hearing to the petitioners as well as the 5th respondent school so as to explain the true and correct position in respect of availability of the posts. We are also further of the view that the petitioners have been infact working on the said post for a period of 4 years for which the approval was granted in the year 2000 and which is sought to be revoked now in the year 2004.

5. In the light of the aforesaid fact, we are of the view that the petitioners should be permitted to continue on the said post till a fresh order is

passed by the respondent no.1. After giving a personal hearing, the respondent no.4 shall pass a speaking order and if it is adverse to the petitioner then the same will not implemented for a period of 2 weeks from the date of communication of the said order to the petitioners herein. We dispose of the present petition with the aforesaid direction. However, there shall be no order as to costs.

Parties to act on a copy of this order duly authenticated by the Court Stenographer.